

EXHIBIT 1

1 Volume: I
2 Pages: 1 - 215
3 Exhibits: 1 - 22

4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE DISTRICT OF MASSACHUSETTS

6 -----x

7 INSITUFORM TECHNOLOGIES,

8 Plaintiff,

9 v. C.A. No. 04 10487 GAO

10 AMERICAN HOME ASSURANCE COMPANY,

11 Defendant.

12 -----x

13

14 DEPOSITION of THOMAS PORZIO, a witness
15 called for examination by the Defendant, taken
16 pursuant to the Applicable Provisions of the
17 Massachusetts Rules of Civil Procedure, before
18 Laurie K. Langer, Registered Professional
19 Reporter and Notary Public in and for the
20 Commonwealth of Massachusetts, at the offices of
21 Nixon Peabody, 100 Summer Street, Boston,
22 Massachusetts, on Tuesday, January 23, 2007,
23 commencing at 10:00 a.m.

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<p>1 APPEARANCES</p> <p>2</p> <p>3 HOLLAND & KNIGHT, LLP</p> <p>4 By Charles L. Philbrick, Esq.</p> <p>5 131 S. Dearborn Street, 30th Floor</p> <p>6 Chicago, Illinois 60603</p> <p>7 (312) 715-5834</p> <p>8 For the Plaintiff</p> <p>9</p> <p>10 NIXON PEABODY LLP</p> <p>11 By Gregory P. Deschenes, Esq.</p> <p>12 Kurt M. Mullen, Esq.</p> <p>13 100 Summer Street</p> <p>14 Boston, Massachusetts 02110-2131</p> <p>15 (617) 345-1324</p> <p>16 For the Defendant</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 (Index continued)</p> <p>2 EXHIBIT PAGE</p> <p>3 13 1/27/04 Fax Transmission to</p> <p>4 Mr. D'Allessandro and Attached 172</p> <p>5 14 Settlement Agreement 175</p> <p>6 15 5/11/04 Letter from Mr. Porzio</p> <p>7 and Attached 180</p> <p>8 16 Packet of Documents, D08810 to</p> <p>9 D08837 183</p> <p>10 17 6/8/04 Letter to Mr. DelPrete and</p> <p>11 Attached 183</p> <p>12 18 5/20/05 Letter to Mr. D'Allessandro</p> <p>13 and Attached 191</p> <p>14 19 5/24/05 Letter from Mr. Savard 193</p> <p>15 20 4/19/05 Memo from Mr. Porzio and</p> <p>16 Attached 195</p> <p>17 21 3/31/06 Letter to Mr. Shea 201</p> <p>18 22 Lessons Learned Report to the</p> <p>19 Massachusetts Water Resources Authority 204</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
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2 (Pages 2 to 5)

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1 out just two weeks after making the earlier
 2 offer?
 3 A. Well, as I described earlier the situation was
 4 evolving as we continued to work, I believe we
 5 were still 24/7 at the time and as, as we
 6 continued to attempt repairs and began the
 7 removal of Shot 6 we found that circumstances
 8 were not as expected. We went back as described
 9 earlier and measured more closely other portions
 10 of the liner and the decision was made largely
 11 by Jacobs that portions of Shot 5 measure in
 12 acceptable ranges and that that stretch, three
 13 segments of pipe, as I recall, could remain in
 14 place with a couple of bungs or so, epoxy
 15 repair, remove and replace everything else.
 16 Q. And when did Insituform begin removing the
 17 liner?
 18 A. Shot 6 or the remainder?
 19 Q. At any part of the liner. When did Insituform
 20 begin it?
 21 A. Boy, that's hard to recall. The first part was
 22 just before Christmas or shortly thereafter. It
 23 was a working Christmas, I remember that.
 24 Q. And that was focused on Shot 6; is that correct,

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1 that removal?
 2 A. Yes.
 3 Q. And between October and the end of December when
 4 you started the removal process had Insituform
 5 removed and replaced any of the liner?
 6 A. I believe we had removed portions of six. I
 7 don't think we had yet installed any liner in
 8 that section.
 9 Q. And the removal began right around Christmas of
 10 2003; is that your testimony?
 11 MR. PHILBRICK: Objection to the extent it
 12 mischaracterizes his testimony. And it's asked
 13 and answered. The witness may answer again.
 14 A. Again, the detail as to exactly when we began
 15 removal is tough. If it wasn't -- it was either
 16 early January or late December.
 17 Q. Okay. And up until that point none of the costs
 18 that Insituform had incurred involved removal
 19 and replacement of the liner; isn't that
 20 correct?
 21 A. Yes.
 22 Q. I think I'm done with that.
 23 A. Okay. (Indicating.)
 24 (Deposition Exhibit 14 marked for

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1 identification.)
 2 A. This is a trip down memory lane.
 3 Q. I'm sure it's not all that pleasant.
 4 A. (Witness reviewing.) Do you want me to read
 5 this?
 6 Q. Just take a quick glance at it and then I'll
 7 have some questions.
 8 A. I'm ready.
 9 Q. Okay. Do you recognize this document?
 10 A. Yes.
 11 Q. Have you ever seen it before?
 12 A. Yes.
 13 Q. Okay. And what is it?
 14 A. Settlement Agreement associated with the
 15 Contract 6840 between D'Allessandro and the MWRA
 16 dated 10, March 2004.
 17 Q. Were you involved in negotiating this agreement?
 18 A. Yes.
 19 Q. What was your involvement?
 20 A. I believe we looked at the draft to ensure that
 21 we and Insituform would support as the
 22 subcontractor D'Allessandro's agreement to
 23 proceed as written.
 24 Q. And do you recall the reason for entering into

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1 the Settlement Agreement?
 2 MR. PHILBRICK: I'm going to object to
 3 foundation.
 4 A. No.
 5 MR. PHILBRICK: The witness may answer if
 6 he can.
 7 A. No.
 8 Q. You don't recall?
 9 A. Perhaps I would have to read it in detail and
 10 think. But I -- it had to do with detailed
 11 contract issues; that's about as detailed as I
 12 can remember.
 13 Q. Do you know whether Insituform agreed to pay the
 14 \$210,000 amount which is referenced in paragraph
 15 2? It's on the second page.
 16 A. Yeah, I see. (Witness reviewing.) Yes. And
 17 that was one of the deducts and why we were not
 18 paid the full amount.
 19 Q. Contract amount?
 20 A. That you asked about, yes.
 21 Q. Okay. So that came off the top of the million
 22 dollars under the contract?
 23 A. Yes.
 24 Q. Do you recall whether Insituform had any